

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7170 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SHAH ASHOKKUMAR POPATLAL

Versus

PATAN MUNICIPALITY

Appearance:

MR CL SONI for Petitioners
MR NV ANJARIA for Respondent No. 1
MR SAMIR DAVE for Respondent No.3 & 4
None present for other Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/10/96

ORAL JUDGMENT

Heard learned counsel for the parties. The petitioners are the members of Ashoka Complex in the city of Patan. The respondent No.1-Municipality had earlier decided to have a pumping station on the land comprising in Revenue Survey No.1038. That land is admittedly just near the Ashoka Complex. Thereafter the committee of the

Municipality decided to shift the pumping station from the aforesaid survey number to the land of City Survey No.1770. This decision has been taken, as per the case of the petitioners, by the Municipality, under its Resolution dated 27.11.89. It is case of the petitioners that thereafter the petitioner No.1 was permitted to construct Ashoka Chambers. The petitioner has come up with the case that the respondent No.2, Executive Engineer, Public Health Department, under its letter dated 16.9.93 addressed to the Municipality requested that new place should be allotted for the purpose of pumping station. Another letter has been written by the respondent No.2 to the respondent No.3 stating that City Survey No.1769 be allotted for pumping station. The respondent-Municipality has also written a letter dated 26.8.94 to give City Survey No.1769 for the pumping station. The grievance of the petitioners is that the respondent-Municipality addressed a letter to the owner of the Revenue Survey No.1038 for taking possession of the land for pumping station though proposals are pending with the Government of Gujarat regarding allotting the land for this purpose of City Survey No.1769.

2. This Court issued notice to the respondents on 24th August 1995 and interim relief has been ordered in terms that status-quo should be maintained. Thereafter on 26th August 1996, this Court has, after considering the matter, made the order which reads as under:

"Controversy in this Special Civil Application is

with respect to installing of a pumping station in revenue survey no.1038. It is submitted by Mr. Majumdar, learned counsel for the petitioner that there is a residential area around survey no.1038 and as such, installing of a pumping station is likely to adversely affect health of people residing in the area. In view of this, it is desirable that the opinion is obtained from Gujarat Pollution Control Board, Gandhinagar. It is also submitted that the drainage system is managed by Gujarat Water Supply and Sewerage Board. Let a joint inspection team of Pollution Control Board and Gujarat Water Supply and Sewerage Board inspect the site and submit a report to this Court by 23rd September, 1996. Respondent no.2 Executive Engineer, Public Health Department, Gandhinagar and Gujarat Water Supply and Sewerage Board, Sidhpur is directed to ensure compliance of this order and to make appropriate arrangements for inspection. S.O. to 23.9.96."

In pursuance of the aforesaid order, a joint inspection

team of Pollution Control Board and Gujarat Water Supply and Sewerage Board inspected the sites and submitted their inspection report in the form of affidavit. This affidavit is submitted in the Court today and copy of the same has been given to the counsel for the petitioners. The learned counsel for the petitioners was asked by the Court whether he wants to file any objections to this affidavit, but he submitted that the petitioners does not want to file objections to this affidavit and requested that the matter may be decided on merits.

3. The grievance of the petitioners in this Special Civil Application is that the respondent-Municipality be restrained to make any construction of pumping station on the land bearing Survey No.1038 in the city of Patan. This prayer has been made as the petitioners consider that in case the pumping station is constructed on the land in question, which is near the land of Ashoka Chambers, then it is likely to adversely affect the health of the people residing in the area. The grievance is that the land of Revenue Survey No.1038 is surrounded by residential area and installing of a pumping station in the said area is likely to adversely effect the health of the people. In para-3 of the affidavit which has been submitted today by the Scientific Officer, Gujarat Pollution Control Board, and EE of Gujarat Water Supply and Sewerage Board, the result of the joint inspection report has been given out which reads as under:

"We further state that the site of R.S.No.1038 and 1770 are centrally locate and surrounded by residential area, Hostel, Hospital, Commercial Complexes etc. The technical report of the GWSSB indicates that both the sites are equally suitable technically for the location of the pumping station. The pumping station will comprise of a collection sump and pump house. Retention period will be about 30 minutes. It will be a closed sump with a vent line. The sewage will be lifted and discharged into the next manhole which will be at a distance of about 50 mtrs. from the said pumping station by a closed pipeline. In case of failure of the pumping machinery or the power supply failure the sewage can over flow through a bypass line to the next manhole. Thus, there will be no exposure of sewage to the atmosphere at the pumping station. The changes of problem of mosquito breeding are very less. Such pumping stations are already located near to the residential areas in Patan Municipality as well as in other Municipal

Corporations also without any serious pollution problem. Thus, pollution potential of said pumping station is very low."

4. In view of the aforesaid result of the joint inspection report, no interference is called for in this matter. The apprehension of the petitioners of adverse effect on the health of the residents of the area surrounded to the land in question likely to be caused on construction of pumping station on the aforesaid land is without any substance. In the result, this Special Civil Application fails and the same is dismissed. Notice discharged. No order as to costs.

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(sunil)